

APPEAL NO. 030725
FILED MAY 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 19, 2003. The hearing officer determined that the respondent's (claimant) _____, injury did not occur while the claimant was in a state of intoxication and, therefore, the carrier is not relieved of liability. The appellant (employer) appeals on sufficiency of the evidence grounds. The claimant did not respond.

DECISION

Affirmed.

The hearing officer did not err in determining that the evidence failed to establish that the claimant was intoxicated at the time of the claimed injury. Section 406.032(1)(A) provides that an insurance carrier is not liable for compensation if the injury occurred while the employee was in a state of intoxication. The definition of intoxication applicable to this case is the state of not having the normal use of mental or physical faculties resulting from the voluntary introduction into the body of a controlled substance. Section 401.013(a)(2). While the evidence reflects that the claimant's drug test revealed positive results for marijuana and cocaine, the hearing officer noted that the drug screen was not performed until two days after the injury in question and no quantitative results were provided. The hearing officer was not persuaded that the evidence established that the claimant lacked the normal use of his mental and physical faculties due to the voluntary introduction of marijuana and cocaine into his body at the time of his _____, injury. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge